

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK**

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EASTERN PROFIT CORPORATION	)	
LIMITED	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 18-CV-2185 (LJL)
	)	
STRATEGIC VISION US, LLC	)	
	)	
Defendant.	)	
	)	

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**SUR-REPLY IN OPPOSITION TO DEFENDANT'S MOTION IN LIMINE**

Strategic Vision US, LLC (“Strategic”) asserts an affirmative fraud claim based on the premise that its principals are ardently anti-communist and would never do business with anyone who has ties to the Chinese Communist Party (“CCP”). At the same time, Strategic refuses to answer questions about whether its legal bills to pursue that very fraud claim are being paid by CCP-backed individuals or entities. Strategic cannot have it both ways.

Yet In its Reply in Support of its Motion *In Limine*, Strategic continues its attempt to do just that. Increasingly more desperate to avoid having to answer under oath whether its litigation funder(s) are backed by affiliates of the CCP—an admission that would gut its fraud claim—Strategic conjures up and then attempts to discredit a new evidentiary theory that Strategic incorrectly attributes to Eastern Profit Corporation Limited (“Eastern”). This new theory, however, is Strategic’s, not Eastern’s. The arguments that Strategic puts forth are inapplicable to Eastern’s actual evidentiary theories, and they are incorrect in any event.

More specifically, in its Reply, Strategic: (1) speculates that Eastern plans to introduce exhibits relating to the criminal pleas of two individuals to prove that those individuals are funding Strategic’s litigation; (2) argues that the Court already has found that the identity of

its funder(s) (which may well include those two individuals—Strategic won’t say) is irrelevant; (3) argues that even if the funders’ identity is “conditionally relevant,” Eastern will not be able to connect enough dots to get the exhibits into evidence; and (4) argues that even if Eastern can connect the evidentiary dots, Strategic has a First Amendment right not reveal the identity of its funders because doing so would chill litigation funding, and cause “parties like Strategic Vision [to] lose their ability to access the courts and defend themselves.” Reply Brief at 8.

Each of those contentions is wrong. The question of whether Strategic is being funded, directly or indirectly, by CCP backers goes directly to the heart of the fraud claim, and evidence on that point must come in.

## I. ARGUMENT

### A. Eastern Plans to Introduce the Broidy and Davis Documents to Show that the U.S. Government (and Broidy, Davis, and the CCP) Consider Guo Wengui a Dissident.

Eastern intends to introduce the charging documents and plea agreements for Elliott Broidy (PX 62, 71) and Nickie Mali Lum Davis (PX 60, 72), as well as a related press release (PX 61), primarily because the documents are evidence that the U.S. Department of Justice itself considers Guo Wengui—who is referred to in the documents as “PRC National A”—to be a “dissident of the PRC,” and thus refers to him as such. PX 72 at ¶ 13; *see also* PX 61 (referring to Guo as a “PRC Dissident”).<sup>1</sup> Moreover, according to the documents, “the government of the PRC,<sup>2</sup> including PRC Minister A and the President of the PRC, were seeking the removal of [Guo] from the United States back to the PRC.” PX 62 at ¶ 15. Davis and Broidy were federally indicted for—and recently pleaded guilty to, *inter alia*—agreeing to lobby high-ranking U.S. government

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<sup>1</sup> Strategic concedes that “PRC National A” is Miles Guo. Reply at 4.

<sup>2</sup> PRC stands for People’s Republic of China.

officials on behalf of the CCP to arrange for Guo’s removal from the United States and return to China. *See., e.g.*, PX 60, 71 & 72. Evidence that the CCP was working to secure the return of Guo to China goes to the fact that the CCP regarded Guo as an adversary, not a supporter, as does evidence that the U.S. Government has expressly classified him as a “dissident.”

Eastern had not intended to introduce these exhibits to show that Broidy and/or Davis are paying Strategic’s fees. However, given that Strategic has proactively raised the possibility that Broidy and/or Lum Davis are involved in Strategic’s funding, and then **explicitly refused to deny their involvement**, Reply at 4 n.6, Eastern should be entitled to explore the subject at trial through examination of Strategic’s witnesses.<sup>3</sup>

**B. This Court Has Not Ruled that the Issue of Whether Strategic Is Being Funded By CCP Backers Is Irrelevant.**

Strategic’s characterization of Magistrate Freeman’s ruling is inaccurate; she did not rule that the identity of Strategic’s funders was irrelevant. Eastern respectfully refers the Court to the text of her transcript ruling for an accurate representation of her decision. Dec. 2, 2019 Telephone Conference Tr., at 76 (Attached as Exhibit 1). As noted in Eastern’s Opposition Brief but conspicuously absent from Strategic’s Reply, the Court decided that it need not make a definitive relevance ruling at the discovery stage because the parties entered into a stipulation that resolved the discovery dispute. The fact that Strategic is now apparently walking away from its stipulation—in which it attested “Strategic Vision US, LLC’s legal fees in this action are not being paid by any person or entity that is or ever was a member of, associated with, or affiliated with the Chinese Communist Party or the People’s Republic of China”—is telling. Opposition Brief, Ex. A.

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<sup>3</sup> Eastern does not seek a trial within a trial, as Strategic suggests. Eastern simply wants to know whether Strategic’s fees are being paid, directly or indirectly, by CCP supporters/affiliates.

Our laws allow for litigation funding and alternate fee arrangements, and the fact that Strategic's fees are being paid by someone other than Strategic may not be remarkable standing alone. In the everyday case, the identity of a litigation funder might be "generally irrelevant" to the parties' claims or defenses. Reply at 2. But if the identity of Strategic's funder in this case belies the assertions underlying Strategic's fraud claim and the Stipulation it signed, that fact is undeniably relevant and related evidence is clearly probative and goes to both merits and credibility. *See* Opposition Brief at 5-6 (citing cases holding that identity of litigation funders is relevant). Exclusion of any such evidence would prevent Eastern from being able to defend itself against Strategic's claims.

**C. The Arguments in Strategic's Reply Do Not Refute the Admissibility of Evidence Regarding Strategic's Litigation Funder.<sup>4</sup>**

Strategic's Reply sets forth a Rube Goldberg web of supposed conditional evidentiary inferences regarding the Broidy and Davis exhibits that conflate the issue of whether Guo is a communist with the issue of whether CCP affiliates are directly or indirectly paying Strategic's fees. Eastern intends to use the Broidy and Davis documents primarily to go to the former issue, whereas Strategic's Motion *in Limine* goes to the latter issue.

Eastern does not subscribe to Strategic's overly complicated theory, which conflates the two issues. Eastern's evidentiary theory is simple: to succeed on its fraud claim, Strategic must prove (*inter alia*) that Guo is a CCP supporter *and* that Strategic would not associate with supporters of the CCP. Evidence going to the first issue includes the Broidy/Davis exhibits

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<sup>4</sup> Strategic's Reply could be read to suggest that Eastern bears the burden of proof. The "Eastern would need to prove" mantra that Strategic employs in its brief should not obfuscate that it is Eastern, not Strategic, who bears the burden of proof on the affirmative elements of its fraud claim. Eastern need not prove that Guo is a dissident or that Strategic is now contracting with the very type of people with whom it claims it would not contract. It is Strategic that must prove that Guo is a dissident and that the political affiliation of its business partners is a material fact on which it reasonably relied in entering the contract. If Eastern has evidence that tends to refute those facts, then it is entitled to present that evidence in defense of Strategic's fraud claim.

(which contain positions on Guo’s political affiliation taken by the U.S. Government in official government documents, and admissions under penalty of perjury from criminal defendants regarding their meetings with CCP officials about Guo). Evidence going to the second issue includes any arrangements by Strategic to have its fees paid by people backed by or affiliated with the CCP. The two issues might end up being related, but the admissibility of evidence on one issue is not contingent on the admissibility of evidence on the other.<sup>5</sup> Strategic’s suggestion that whether or not the CCP and its allies are successful in deporting Guo is a fact necessary to the admission of this evidence on either issue, Reply at 5, is incorrect.

**D. Having Used Political Affiliation as a Sword, Strategic Cannot Turn Political Affiliation Into a Shield By Invoking the First Amendment.**

Strategic brought its fraud claim premised entirely on the supposed political affiliation of its principals. It now seeks to exclude evidence of its principals’ political affiliation, hiding behind the First Amendment. Its argument is ridiculous on several levels.

As a threshold matter, the difficulty in attempting to define the political beliefs of Guo, Strategic, or Wallop and Waller highlights one of the many reasons Strategic’s claim should fail on the merits. One’s political beliefs are not black and white facts that can be proven true or false. Now faced with a challenge to its own political affiliation that it brought upon itself, Strategic apparently is starting to understand this logic. But Strategic must suffer the consequences of pursuing its claim. To the extent Strategic’s current argument is “we were not okay with communist loyalists in December 2017 but we are ok with them now,” Eastern must be able to explore that change of position on a “fact” that Strategic claims is material.

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<sup>5</sup> Even if Eastern had to lay a foundation in order to get any of its proffered exhibits into evidence, Eastern simply could do so by eliciting foundation testimony from witnesses. The fact that a foundation must be laid before an exhibit can come in does not preclude a party from attempting to lay that foundation.

Relatedly, Strategic did not employ funders because they “had the courage to come to **Strategic’s defense.**” Reply at 1. Rather, the evidence that Strategic is hiding may well show that it was the funders who employed Strategic to assist in the **funders’ offense.** Notably, before current counsel entered an appearance in this matter, and while Strategic was simply defending Eastern’s claims for the return of its \$1 million deposit, Strategic’s lawyers withdrew for nonpayment of fees. *See* Docket 102. Then suddenly, when current counsel entered its appearance in this case, not only was Strategic able to afford the defense of Eastern’s contract claims, but **Strategic for the first time asserted a fraud counterclaim against Eastern based on Guo’s political affiliation** and cranked up a scorched earth approach to discovery and litigation. Under such circumstances, the identity of Strategic’s funder goes not only to the merits of its fraud claim, but also to the bias of Strategic’s witnesses. *See* Opposition at 5-6.

Along the same lines, when it comes to political affiliation, Strategic is the aggressor, not the party in need of defense. Eastern brought this contract case because it paid a \$1 million deposit for private investigative services, to people who turned out not to be private investigators, and got nothing in return. **It was Strategic—not Eastern—who then turned this case into a political dispute by bringing a fraud claim based on the theory that political affiliation is a material representation of fact upon which they reasonably relied in entering the contract. Having affirmatively put the political affiliation of its principles at issue, it cannot now claim that it has some First Amendment protection that allows it to hide its own affiliations that belie its claim.** “[W]hen a party puts its confidential communications directly at issue in litigation, any privilege — qualified or not — may be waived.” *In re Methyl Tertiary Butyle Ether (“MTBE”) Prods. Liab. Litig.*, 898 F. Supp. 2d. 603, 607 (S.D.N.Y. 2012) (applying the “at issue” doctrine in the context of the deliberative process privilege and noting that the

doctrine “serves to avoid the ‘inherent inequity in permitting [litigants] to use the privilege as a sword rather than a shield,’ which is the result whenever litigants are permitted to ‘divulge whatever information is favorable to [their] position and assert the privilege to preclude disclosure of detrimental facts’”); *see also HSH Nordbank AG N.Y. Branch v. Swerdlow*, 259 F.R.D. 64, 74 (S.D.N.Y. 2009) (stating that the at issue doctrine prohibits a party from using the attorney-client privilege as both a sword and shield.); *Schiller v. City of New York*, 245 F.R.D. 112, 120 (S.D.N.Y. 2007) (reasoning that because the Second Circuit had found the fairness/at issue doctrine applicable to the normally inviolate attorney-client privilege, that doctrine necessarily applies to the qualified journalist's privilege as well).

## II. **CONCLUSION**

For the foregoing reasons and those stated in Eastern’s Opposition, Strategic’s Motion *In Limine* should be denied.

Dated: November 18, 2020

Respectfully submitted,

/s/ Joanna J. Cline

Francis J. Lawall (Admitted to S.D.N.Y.)  
TROUTMAN PEPPER HAMILTON  
SANDERS LLP  
3000 Two Logan Square  
Eighteenth and Arch Streets  
Philadelphia, PA 19103  
215.981.4000

Joanna J. Cline (*Pro Hac Vice*)  
Christopher B. Chuff (*Pro Hac Vice*)  
TROUTMAN PEPPER HAMILTON  
SANDERS LLP  
1313 North Market Streets, Suite 5100  
Wilmington, DE 19801  
302.777.6500

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: :  
EASTERN PROFIT CORPORATION : Docket #18cv2185  
LIMITED, : 1:18-cv-02185-JGK-DCF  
Plaintiff, :  
- against - :  
STRATEGIC VISION US, LLC, et al., :  
Defendants. : New York, New York  
: December 2, 2019  
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE  
THE HONORABLE DEBRA C. FREEMAN,  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: PEPPER HAMILTON LLP  
BY: JOANNA CLINE, ESQ.  
CHRISTOPHER CHUFF, ESQ.  
1313 Market Street, Suite 5100  
Wilmington, Delaware 19899

For Defendant - GRAVES GARRETT, LLC  
Strategic Vision BY: EDWARD GREIM, ESQ.  
US, LLC: JENNIFER DONNELLI, ESQ.  
1100 Main Street, Suite 2700  
Kansas City, Missouri 64105

For Counter Defendant - HODGSON RUSS LLP  
Guo Wengui: BY: ERIN TESKE, ESQ.  
MARK HARMON  
605 Third Avenue, 23<sup>rd</sup> Floor  
New York, New York 10518

Transcription Service: Carole Ludwig, *Transcription Services*  
141 East Third Street #3E  
New York, New York 10009  
Phone: (212) 420-0771  
Email: [Transcription420@aol.com](mailto:Transcription420@aol.com)

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

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THE COURT: Hello, it's Judge Freeman.

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THE COURT: Okay.

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MS. ERIN TESKE: Good morning, Your Honor, Erin  
Teske and Mark Harmon here for Mr. Guo, nonparty.

THE COURT: Okay. Is there anyone else who  
represented any other nonparties?

MR. GREIM: Your Honor, there's nobody else,  
I'm the one who put the call together here, so it's  
just the three of us.

THE COURT: Because there is more than one  
thing going on now because in this case there always  
seems to be more than one thing going on. I had had a  
conference whenever that was with counsel for the  
party last week, and an issue came up that related to  
Mr. Guo's deposition so I said I wanted to continue  
the conference when Mr. Guo's attorney could be on the  
phone. But since then I've gotten this correspondence

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2 about a request for a stay and I guess, Ms. Teske, are  
3 you representing all of the nonparties who are making  
4 that motion?

5 MS. TESKE: Your Honor, we represent, we've  
6 represented nonparties, Golden Spring (New York),  
7 Karen Maistrello, Yvette Wang and Myles Kuok or Guo  
8 Wengui, all of whom have been affected by extensive  
9 nonparty discovery requests and we made that motion on  
10 their behalf.

11 THE COURT: Okay, so first of all, let me work  
12 backwards a little bit. It looks to me from Mr.  
13 Greim's opposition to the request for a stay that he  
14 is actually seeking to do very little more before  
15 accepting the close of discovery. It doesn't seem like  
16 he's seeking at this point substantial additional  
17 nonparty discovery; is that correct, Mr. Greim?

18 MR. GREIM: Yes, Your Honor, based on our call  
19 with you last week, we've got, you know, we're hoping  
20 to take the deposition of Mr. Guo on Wednesday and Mr.  
21 Bannon on Thursday, and subject to whether we can work  
22 out the issues with Google on these, and Twitter on  
23 these subpoenas, we're done. We're not going to go  
24 try to find ACA in Hong Kong or do whatever things,  
25 we're just, we want to try to get these topics from

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2 Mr. Guo because that seems to be the most efficient  
3 way to wrap this up.

4 THE COURT: So when you're talking, Ms. Teske,  
5 when you're talking about Golden Spring and Ms.  
6 Maistrello, and who am I forgetting, Yvette Wang, it  
7 doesn't seem like anything more is being sought from  
8 them.

9 MS. TESKE: Your Honor, my concern is with the  
10 subject to (indiscernible) the responses he wants from  
11 Mr. Kuok. And there has been, you know, Strategic has  
12 a proclivity for making a request on nonparties that  
13 are far in excess of any of the scope that they had  
14 been permitted to date. And those, you know, subpoenas  
15 to Google, and Twitter, and AT&T, and T-Mobile and the  
16 subpoenas that are outstanding are very onerous and  
17 harassing of our clients. He's suggested that if he  
18 doesn't get the answers he wants from Mr. Kuok, that  
19 he wants another day from Golden Springs and I --

20 THE COURT: All right, all right, I can  
21 address that, let's take it in smaller pieces, okay?  
22 The deposition of Mr. Guo is supposed to go forward,  
23 I'm not sure why there's been a problem in having it  
24 go forward, there is an issue about topics to be  
25 covered, which is why I wanted to have counsel for Mr.

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2 Guo on the phone before that deposition to make sure  
3 that everybody is being able to speak on that topic,  
4 be heard on that topic. But I am not envisioning, Mr.  
5 Greim, that if you are not satisfied with Mr. Guo's  
6 responses, that that opens the door to further  
7 depositions.

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MR. GREIM: Nor are we, Your Honor, honestly.  
9 We just, at this point, if Mr. Guo, you know, can't  
10 tell us about Golden Spring or says he doesn't know or  
11 he's never heard of it, or whatever, at that point we,  
12 I mean to me the relief we would get at that point  
13 might be something like on summary judgment Golden  
14 Spring can't come rolling in with all this information  
15 that we, you know, that it never gave us in discovery.  
16 But we've got to tie it off at some point and I think  
17 that's how we would do it.

18

THE COURT: I think sooner would be better  
19 than later to "tie it off." So, all right, so my view  
20 on this is that Mr. Guo's deposition, continued  
21 deposition should go forward, this should be the end  
22 of it, there should not be another day after this. And  
23 then that should not open the door to other  
24 depositions from ACA or Golden Spring or anybody else.

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Mr. Bannon is something that I have heard no

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2 squawking about, from his counsel I've had no motion  
3 to quash a subpoena, I don't know what's going on with  
4 discussions with his counsel, you are not representing  
5 him, Ms. Teske, I gather, and so that seems to be  
6 something I cannot address today and have no reason to  
7 address because I haven't had any appropriate motion  
8 practice in front of me should it be needed.

9 MR. GREIM: Your Honor, the only thing that we  
10 seek from you, and it's actually pretty limited,  
11 because there's really two pieces. One is, is it even  
12 okay to do it on December 5<sup>th</sup>. The other thing is, I  
13 suppose he could still file a motion to quash, but  
14 he'd probably file that down in District of DC and  
15 then he would raise, you know, whatever substantive  
16 issues he has with the subpoena. But I thought that  
17 what we might need from you is an okay that December  
18 5<sup>th</sup> is not too late to take it. You're obviously not  
19 ruling on whether, on any grounds to quash that he  
20 might raise.

21 THE COURT: Well that's outside the discovery  
22 period?

23 MR. GREIM: Correct, December 5<sup>th</sup> is outside  
24 the discovery period, that period ended on Friday. He  
25 was noticed to appear the previous Friday which I'm

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2 losing track of the dates, November 22<sup>nd</sup>.

3 THE COURT: Well how much notice did you give  
4 him?

5 MR. GREIM: We got word, another one of my  
6 trips to the airport we got word that he was not going  
7 to appear the following day, and so we're treating it  
8 as a no show, there's no motion to quash filed.

9 THE COURT: How much notice did you give him?

10 MR. GREIM: He was ultimately served the  
11 previous Thursday, so November the 14<sup>th</sup>. We've been  
12 trying to serve him for a month before that. And so  
13 what I told --

14 THE COURT: I'm sorry, you served him on the  
15 14<sup>th</sup> with a return date for the deposition on the, on  
16 what date?

17 MR. GREIM: November 22<sup>nd</sup>, Friday, Your Honor.

18 THE COURT: Well that's, you know, eight days  
19 notice, generally, you know, reasonable notice is  
20 going to be at least ten for --

21 MR. GREIM: Sure, Your Honor, and I'd agree,  
22 I'd like to have had more notice, what we discussed  
23 with counsel was let's get on the phone with the  
24 Court, if you want to push it until after the  
25 discovery deadline, let's get on the phone and at

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2 least get approval to do that. And rather than doing  
3 that, they emailed and said he would not be appearing,  
4 they wanted more time to prep him and so because they  
5 earlier mentioned December 5<sup>th</sup> as an available date,  
6 you renoticed it for that date. I'd also tell you that  
7 we spoke with his counsel that preceding week, both on  
8 Monday and then on Thursday.

9                   THE COURT: Well I'm not going to rule on this  
10 based on your representations as to what opposing  
11 counsel said. So if, and if there is a motion that's  
12 in a different district then I shouldn't be ruling on  
13 it in any event. And I'm not going to extend the  
14 discovery deadline just based on, you know, what you  
15 tell me were your efforts and why it couldn't have  
16 been done sooner within the discovery period.

17                   So, you know, I'm not going to do what you're  
18 asking me to do right now, I'm not going to say  
19 discovery is extended to and through December 5<sup>th</sup>, but  
20 that's without prejudice for you to renew that  
21 application with, you know, counsel for Mr. Bannon so  
22 that I can hear what both sides have to say about the  
23 diligent efforts that were made to obtain his  
24 testimony before the discovery period and how you were  
25 thwarted in your efforts to do so. And I'm not

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2 persuaded at this point that you were thwarted in your  
3 efforts to do so. So, you know, that you served him  
4 with sufficient time to make it reasonable, that the  
5 subpoena should be enforced, and again, it apparently  
6 was in a different district. So that's denied for now.

7 With respect to Mr. Guo, that deposition  
8 should go forward but it should not open the door to  
9 anything else. And so with respect to depositions,  
10 when that's over, the deposition phase of discovery  
11 should be no more, that should be it.

12 With respect to the subpoenas that are  
13 outstanding, you know, I thought at least certain  
14 subpoenas, they were very broad. But again, I'm not  
15 sure I actually have a motion to quash or a motion to  
16 compel or anything in front of me, and I think last  
17 time we spoke, I think you told me it was not in front  
18 of me.

19 MR. GREIM: Your Honor, actually you have a  
20 motion from Ms. Teske -- well, let's see, I better let  
21 her, what we decided on our last call was that she  
22 could contact them and say that it's not necessary to  
23 make any production while we work out --

24 THE COURT: That's correct. That's right.

25 MR. GREIM: And here's the thing, Your Honor,

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2 what Google and Twitter ultimately allow will kind of  
3 make or break this for us. we are still in talks with  
4 them, we removed the geographic tracking element on  
5 these subpoenas and I think we reported that to you  
6 last time.

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THE COURT: Right, and I remember saying that  
I didn't understand why you were seeking the  
information about the IP addresses from which contact  
had been made because it seemed to me that that was  
another way to get geographical information. And you  
had said, no, no, we're not looking for geographical  
information.

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MS. TESKE: Your Honor, it was more than the  
geographic information, too, I know that's precisely  
what we picked up on because it seems to be the most  
offensive component. But we're talking about three  
years of phone records and billing information, and  
none of the information that he's asked for is  
remotely relevant.

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MR. GREIM: Your Honor, I mean we've got, we  
can argue that whatever is out there, I don't think  
it's a motion --

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THE COURT: Wait, wait, wait, we had taken a  
look at the case law regarding when subpoenas for

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2 phone records and the like are upheld in civil  
3 litigations. And generally what we've seen is when  
4 there is something that's narrowly tailored to an  
5 issue in the case where you really can see that the  
6 effort is made to have it narrowly tailored, you know,  
7 there's a particular issue about a particular  
8 conversation that's at issue, you know, between two  
9 parties and there's a dispute about what took place,  
10 or when it took place or something like that, you  
11 know, and you're looking to have the records to try to  
12 confirm one way or another whether that conversation  
13 took place on that day in time. Something that is  
14 narrow and is clearly geared to something that's  
15 disputed or, you know, material to claims or defenses.

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What you have is extremely broad and it's  
17 unclear to me even why you are looking for the  
18 information you are looking for. You did not really  
19 lay out for me an explanation of relevance of all of  
20 these things you're looking for. Now that said, if you  
21 are in the process of negotiating, I always encourage  
22 negotiation, but if Ms. Teske represents anybody who  
23 has standing to object because it's there records and  
24 she thinks that it would reveal personal information  
25 about them in some manner, you should include her in

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2 your discussions, and you shouldn't simply negotiate  
3 with Google.

4 MR. GREIM: But, Your Honor, what we want to  
5 first do is see whether we can even overcome the  
6 issues that Google and others have raised and then our  
7 intent frankly was to go back to Ms. Teske and say,  
8 well, here's where we are, what do you think about  
9 this. I don't know about three-way phone calls on  
10 this. I mean I don't know if the Court's suggesting  
11 that, but certainly we'd have to come back to Ms.  
12 Teske. We're just trying to work with in-house counsel  
13 at Google and I get kind of confused here. I think one  
14 of them is actually part of Google, I don't know this  
15 as well as I should.

16 THE COURT: Well, look, if I'm going to need  
17 to resolve this, and I think what you told me last  
18 time was that they were not producing because it was,  
19 I've given the direction that they not produce until  
20 things were sorted out, until I had ruled, and it was  
21 not at that time in front of me to rule, maybe what I  
22 was thinking at the time was I didn't have Ms. Teske  
23 present. But in any event, I remember thinking that  
24 was being tabled.

25 So the fact of the matter is, if there is

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2 going to be a dispute about it, then the party that is  
3 seeking the discovery has the burden to show relevance  
4 in the first instance and you are going to have to do  
5 a lot more than you did to demonstrate why the kinds  
6 of records you are seeking are relevant to any claim  
7 or defense that's been asserted in this case. Because  
8 just to say I want all the phone records because I  
9 think, I don't know, if I go through them maybe I'll  
10 find something, is not sufficient. You're going to  
11 have to explain why these materials that you are  
12 seeking are appropriate for production in this case.

13 MR. GREIM: Your Honor, we recognize that, and  
14 we just, frankly, we will do that at the appropriate  
15 time if we can get to that stage, and it may be that  
16 we don't, but I think we're coming to a conclusion  
17 here one way or the other, and we'll be prepared to  
18 make our showing to you.

19 THE COURT: Well I might just cut the whole  
20 thing off altogether before you burden Google with  
21 ongoing conversations about what can they do and what  
22 will they do. Because if it's not something where you  
23 can make a showing of relevance in the first instance,  
24 why are you even putting them to that burden of having  
25 those discussion with you? Can you give me a basic

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2 explanation as to why you're seeking all of these  
3 records from numerous providers, right? It's  
4 LinkedIn, and Google, and YouTube, and AT&T, right,  
5 and Verizon maybe, I mean I can't remember exactly but  
6 I think there are at least five providers.

7 MR. GREIM: Your Honor, here's the couple of  
8 basic points and they're different for each one. And  
9 I'm not the, I don't have my little chart in front of  
10 me here but I'll do my best. So for Google and I think  
11 YouTube is one of those, it's going to be important.  
12 There are some things that are on the internet, videos of  
13 Guo, or recordings that Guo says are not his. And being  
14 able to trace those back and show that actually those are  
15 his accounts, and we know that one of these channels from  
16 the objection letter I think that came from Ms. Teske,  
17 they admit that one of those channels is actually Guo's.  
18 One of the three that I think we're seeking.

19 THE COURT: Well then you don't need the  
20 information on the one because you have an admission.

21 MR. GREIM: Well but they don't say which one it  
22 is.

23 THE COURT: All right, well if you have a  
24 particular video that you can show has some relevance and  
25 you're trying to show this video is on an account that is

1 controlled by Mr. Guo and you can show that that has some  
2 relevance, then I would think you could have a very  
3 tailored request for ownership or control or whatever  
4 registration information for the particular account for  
5 the particular video at the time that that video was  
6 uploaded. But the way you've framed the request is not  
7 like that, it's very much broader, if I recall.

9 MR. GREIM: And then the other piece of this is,  
10 I think we'll be able to see that there are, you know, you  
11 would not expect lots of phone calls, unprotected phone  
12 calls during the time period here from Guo or Golden  
13 Spring back to the mainland.

14 THE COURT: Well then if you're looking for a  
15 certain country code or something like that, you're not  
16 looking for all phone records, you're looking for calls  
17 within a certain timeframe to certain people or certain, a  
18 certain part of the world or something at a minimum.

19 MS. TESKE: Why in the world would that be an  
20 expectation that would be relevant to this case?

21 MR. GREIM: Well, we've heard --

MS. TESKE: He has family in China.

23 MR. GREIM: Yeah, but we've heard some testimony  
24 about what people actually do, what dissidents actually do  
25 when they call back to family or associates in China, and

1 discussions over an open phone line are not one of them.

2 And so --

3 MS. TESKE: Says who, Eddie?

4 THE COURT: I'm sorry, I didn't hear, Ms. Teske,  
5 what?

6 MS. TESKE: He said we have testimony to this  
7 effect, who is setting the standard here for what a  
8 dissident does and doesn't, and why isn't communicating  
9 with family or friends that he has in a country in which  
10 he grew up and spent his life typical behavior for a  
11 person?

12 MR. GREIM: I will say this testimony comes from  
13 a witness that, I mean frankly, Your Honor, this is a  
14 separate issue that I wanted to get to on this call  
15 later, but we had a witness testify on Tuesday of last  
16 week and the only people in the room were myself, my  
17 client representative and Ms. Cline for Eastern  
18 Profit, there were no other corporate representatives  
19 there. And Mr. Guo knew of the deposition, of course,  
20 and then has gone on YouTube, has posted several  
21 videos on the internet starting the day afterwards,  
22 attacking the witness, discussing what the witness'  
23 testimony was and trying to refute it, and making  
24 threats against the witness. And frankly, I don't feel

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2 comfortable discussing more about what the witness  
3 said on the phone with the Court, not with Guo's  
4 counsel on the line.

5 MS. TESKE: Your Honor, this is the first I'm  
6 hearing of any of this and, you know, I obviously  
7 cannot, this issue cannot be properly addressed if we  
8 can't have a candid conversation on it, so --

9 MR. GREIM: Well I can represent to the Court  
10 that it will be our position, based on witness  
11 testimony, that dissidents do not call back on  
12 unprotected phone lines. You should not see lots of  
13 phone calls back to the mainland.

14 MS. TESKE: And this is based on one  
15 nonparty's opinion?

16 MR. GREIM: Well I'm going to stop there  
17 because I am afraid where this is going to lead.

18 THE COURT: All right.

19 MR. GREIM: And I don't want to take --

20 THE COURT: Okay, everybody stop. Everybody  
21 stop. Ms. Teske is an officer of the Court, she has  
22 ethical obligations, okay. Saying that you are not  
23 comfortable describing the subject of testimony to  
24 someone who is an officer of the Court leads to a  
25 question of what are you concerned that she would do

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2 with this information and why would you be concerned  
3 that she would do such a thing. I don't understand  
4 that and I'm assuming you are able to have a candid  
5 conversation with counsel, but you can do that offline  
6 as part of your discussions about this subpoena.

7 All right, now number two, I'm not going to  
8 make a determination as to what is or is not  
9 appropriate for dissidents to do or what dissidents  
10 typically do or do not do or anything of that nature.  
11 I have no idea, all right. Parties are developing  
12 their claims and are developing their defenses, and  
13 they're going to rise and fall on whatever evidence  
14 they can put together. Within reason they can have  
15 discovery on it, if it starts to get unreasonable I  
16 cut it off. At this point Mr. Greim has indicate din  
17 his letter of November 27<sup>th</sup>, and I quote, "we are in  
18 the final lap of discovery." I accept that, you are  
19 in the final lap of discovery, in fact, discovery is  
20 closed. Anything that is left is going to be  
21 something that was duly requested, appropriately  
22 requested during the discovery periods and has not  
23 happened yet through no fault of your own, otherwise  
24 discovery is done.

25 So my ruling with respect to Mr. Bannon is I

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2 have no persuasive showing at this point as to why  
3 something didn't happen within the discovery period,  
4 and only didn't happen through circumstances outside  
5 your control, that they couldn't have been reasonably  
6 anticipated and that there were diligent efforts made  
7 to accomplish it within the discovery period. So as  
8 far as I'm concerned, as of now that's out.

9                   Mr. Guo's continued deposition was duly  
10 requested within the period, I've already ruled on it.  
11 I've already said it should go forward, and it should  
12 go forward. The subpoenas were served within the  
13 discovery period, there was some noise about some of  
14 them that, you know, has not been resolved, I was told  
15 that there are some negotiations going on.  
  
16 Negotiations are what should happen, but if there's a  
17 nonparty that has expressed a privacy interest and,  
18 therefore, a standing to challenge them, that party,  
19 that nonparty's counsel should be in the loop in  
20 discussions. I don't care how you go about it, I don't  
21 care whether you have two-way conversations, three-way  
22 conversations, I am telling you that the subpoenas, as  
23 drafted, were extremely broad and there is going to  
24 have to be a particularized showing of relevance if I  
25 have to rule on this if you cannot work it out between

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2 you.

3 I'm going to give you a narrow window of time  
4 to try to work it out between and among the interested  
5 people and entities. If you can't work it out you'll  
6 tell me how close you got and what remains, and I'll  
7 rule. And I will tell you now, Mr. Greim, I am going  
8 to rule against you if it's not narrowly tailored to  
9 something the subpoenas, as framed, looked extremely  
10 broad and overly so. But Ms. Teske, I'm going to tell  
11 you now that I am not going to buy into any party or  
12 nonparty's view of what the underlying truth of  
13 anything is. I'm not going to be persuaded that this  
14 witness is particularly knowledgeable, I'm not going  
15 to persuaded this witness is not particularly  
16 knowledgeable, if there's a line where I can follow  
17 the reasoning and it is an arguable defense, or at  
18 least I understand it, I'll allow some leeway in  
19 discovery within reason.

20 So if there is some way to focus records on  
21 important phone calls that have been identified or  
22 something of that nature, I may allow that. If it's  
23 something that is just give me all your phone records  
24 for all these years, I probably would disallow that.  
25 And so you should talk in good faith to see if you can

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2 come up with something on these outstanding subpoenas  
3 where there has been a motion duly made in front of me  
4 to see if you can work out your differences, if not,  
5 you put your narrowed differences in front of me.

6 I'm going to move on to Mr. Guo's deposition  
7 and the issue that we dealt with last week which had  
8 to do with ACA. I had previously ruled that I was not  
9 persuaded, that evidence about whether money could be  
10 moved in or out of Hong Kong was sufficiently relevant  
11 to the claims or defenses, that there was a  
12 sufficient, you know, nexus to defendant's defense in  
13 this case, to make that discovery proportionate to the needs  
14 of the case, and I had said forget it because you are not  
15 going there.

16 Then we had some changed circumstances. As I  
17 understand it, there was testimony by a, was it a  
18 30(B)(6) witness for Eastern Profit, was that right,  
19 who testified about money in or assets in Hong Kong of  
20 Mr. Guo and, perhaps it's Eastern Profit, I cannot  
21 quite recall, being frozen and --

22 MS. TESKE: Sorry, Your Honor, I don't, I just  
23 want to make sure that we're clear because that's not  
24 my understanding. My understanding is that she  
25 testified that's Eastern's money.

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2 THE COURT: Eastern Profit's money?

3 MR. GREIM: Yes, Your Honor, that's right.

4 She said that because it's Eastern's dissident's

5 activities, it's assets were frozen.

6 THE COURT: Okay.

7 MS. TESKE: Pursuant to a Hong Kong court

8 order.

9 THE COURT: Right, I understand that, that  
10 Eastern's, that, no, not pursuant to a Hong Kong court  
11 order, that the -- no, but by recollection is of the  
12 conference that we had was although there was this  
13 Hong Kong court order, the witness testified that the  
14 freezing of assets had to do with dissident, someone's  
15 dissident status, presumably Mr. Guo. And that it was  
16 only going to be freed up, I can't quite remember but  
17 it had to do with something beyond this order of the  
18 Hong Kong court. The testimony was read to me on the  
19 phone in the last conference and it seemed me that  
20 Eastern's witness, who Eastern's counsel said had  
21 misspoken, but that was the testimony, so I can't take  
22 counsel's word for it that the testimony was in error.  
23 That Eastern Profit's witness had said that dissident  
24 activities can result and did result in money being  
25 tied up in Hong Kong. And that --

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2 MS. TESKE: Your Honor, I haven't seen that  
3 transcript, so I guess (indiscernible) and I can't  
4 respond to that.

5 THE COURT: Does anybody have it handy?

6 MR. GREIM: I do, Your Honor.

7 THE COURT: Can you read that again, because  
8 it was that testimony that made me slightly, at least,  
9 rethink my prior ruling with respect to the relevance  
10 of whether ACA could move money for Eastern or perhaps  
11 for Mr. Guo.

12 MR. GREIM: Your Honor, I would say Ms. Teske  
13 was present at the deposition, but let me find it  
14 here, I've got it. I've got it pulled up, I just need  
15 to go back to my old letter to get back to the right  
16 spot.

17 THE COURT: In any event, while you're looking  
18 for that, based on that testimony, which seemed to me  
19 to be a changed circumstance because it seemed to me  
20 to be contrary to what had been represented in prior,  
21 one or more prior phone conferences about whether  
22 money could be freely moved out of Hong Kong  
23 regardless of dissident status or involvement with  
24 dissidents, I was more inclined to allow some evidence  
25 regarding ACA. But on the other hand, it seemed

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2 likely futile to try to press on compelling ACA to  
3 appear for testimony, because I was not persuaded that  
4 the service on Ms. Maistrello was adequate service on  
5 ACA, I was, it was very unclear how another witness  
6 could be compelled to come here to give testimony. It  
7 seemed like it was, you know, as we walked through the  
8 various issues it seemed to me that the burdens and  
9 the difficulties, practical and otherwise, of trying  
10 to compel ACA testimony outweighed going down that  
11 path. But I also thought that some limited questions  
12 on that topic could be posed to Mr. Guo even though I  
13 had previously said otherwise, and that's why I wanted  
14 Mr. Guo's counsel on the phone before that deposition  
15 happened. Because I didn't want that ruling to be  
16 sprung on counsel after I had previously in writing  
17 said something otherwise.

18

Did you find the testimony?

19

MR. GREIM: Your Honor, I am sorry, I have not  
20 found it yet, I've got an electronic version up here  
21 and I'm trying to.

22

MS. TESKE: Eddie, would you mind just sending  
23 me a copy?

24

MR. GREIM: I'll do that.

25

THE COURT: Hold on, I had counsel or Eastern

1  
2 Profit on that last call and you had it at your  
3 fingertips, is that the same counsel I have today?

4 MS. CLINE: Yes, Your Honor, I'm here, I have  
5 the transcript in front of me, I'm just not sure that my  
6 view of it and Mr. Greim's view are the same.

7 THE COURT: Well I think you're the one who read  
8 it last time.

9 MR. GREIM: I'm the one who read it last time I  
10 think.

11 MR. GREIM: Yes, I went to the, I cited, I've  
12 got a letter for the Court where I cited about four or  
13 five places in this transcript and I was trying to find  
14 that letter and for some reason it's not saved in our  
15 pleadings file.

16 THE COURT: I'm sorry, so you have many letters  
17 to the Court --

18 MR. GREIM: I know.

19 THE COURT: And perhaps --

20 MR. GREIM: Everybody has seen my, I laid out my  
21 argument in that, in a reply letter that responded to Ms.  
22 Cline's letter on this. And I'm sending the condensed  
23 transcript to Ms. Teske, who was there, let's see here, so  
24 she can have it in front of her. Okay, Erin, I sent it to  
25 you, I just typed in Strat Vision for the subject line.

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2 Hopefully that is gleaning its way to you if you truly  
3 don't have it.

4 MS. TESKE: Thank you, no, I truly don't have  
5 it.

6 MR. GREIM: Okay, I'm searching for the term  
7 mainland, I sent Jennifer back, we may have misfiled this  
8 letter that I'm relying on, it may be in our  
9 correspondence file.

10 THE COURT: I'm sorry, do you remember the, I'm  
11 looking at my collection of letters from you. Was it  
12 shortly after a deposition, can you place a date?

13 MR. GREIM: Yes, it would have just been last  
14 week, it's a very recent letter, Your Honor. And I'm  
15 just, it will be after the 19<sup>th</sup>. I usually have all  
16 these printed off sitting in front of me --

17 THE COURT: Hold on, I'll go onto the docket  
18 and I'll pull up correspondence. I'm sorry, the  
19 deposition was the 19<sup>th</sup>?

20 MR. GREIM: I'm sorry, Jennifer, oh, here it  
21 is. Okay, do you know what docket, it was on the 22<sup>nd</sup>,  
22 November 22<sup>nd</sup>, so with that information --

23 THE COURT: Well I have on the 22<sup>nd</sup> there were  
24 four letters filed. There was one from Joanna Cline,  
25 there was one from Mr. Greim, there's one, oh, that's

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2 not a letter, that's an order. There is one that's a  
3 response to --

4 MR. GREIM: I'm sorry, Your Honor, it was on  
5 the 25<sup>th</sup>.

6 THE COURT: The 25<sup>th</sup>, okay, I have a motion to

7 --

8 MR. GREIM: Okay, here we go, it's docket  
9 number 206.

10 THE COURT: Okay.

11 MR. GREIM: And I've got a, thank you,  
12 Jennifer for that.

13 THE COURT: Do you see, well the one I have is  
14 redacted on the docket.

15 MR. GREIM: I know, I know, but I've got, I  
16 will forward it, I will just forward it to -- I can  
17 give you the cite.

18 THE COURT: I just would like you to read the  
19 portion of the transcript that you said changed  
20 everything. That's all I'm looking for.

21 MR. GREIM: I know. I know. Sorry. Okay,  
22 we'll start with 73. This is page 73-20 to 74-8.  
23 Just getting there here. Okay, this is the beginning  
24 here. I said, I started to ask, let's start off at  
25 line 11, I said "if the contract had not been

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2 terminated and Strategic Vision had given Eastern  
3 Profit what it wanted, how was it every going to repay  
4 the loan to ACA or even make interest payments?

5 Answer: If they're not liars, we were not cheated,  
6 they're professional qualified investigation company,  
7 we're talking about if that is the scenario." And  
8 then "Question: How is Eastern Profit going to repay  
9 Strategic or ACA? Answer: Which means if this  
10 contract with Strategic Vision, let's say, let's  
11 imagine work out, right, succeed by the end, right,  
12 okay, Eastern Profit has bank account and I heard  
13 there are assets. The bank account was frozen by  
14 Chinese Communist Party in Hong Kong. Eastern believes  
15 that the corrupted CCP are taken down, there are  
16 assets, nobody can take them. So the bank account will  
17 be unfrozen and Eastern Profit will get back to their  
18 normal business." That's the end of the first answer.  
19 Then I said, "which is what?" And the answer was, "I  
20 heard again, this is my obtained knowledge, like  
21 investment." So that's the first one but then there  
22 are more.

23 The next place is page 196 --

24 MS. TESKE: That doesn't suggest to me that it  
25 was frozen under any other circumstances than the Hong

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2 Kong order --

3 THE COURT: If you'll please let Mr. Greim  
4 finished reading from the transcript, thank you.

5 MS. TESKE: Sorry.

6 MR. GREIM: Okay, page 196-9, "what was  
7 Eastern's plan for publicizing and using the  
8 information that Strategic Vision as supposed to  
9 obtain? Answer: Of course to send this criminal  
10 person or criminal Chinese Communist Party officials  
11 into jail and to, including Eastern Profit, the  
12 company, their assets back. Question: So Eastern  
13 Profit believes that the public outcry resulting from  
14 publicity would cause its assets to be unfrozen in  
15 Hong Kong? Answer: There are some words I don't  
16 understand in your sentence? Archive, what's that,  
17 what's your question," and we went back and forth here  
18 for a second.19 So then we went on to page 197, 1 "so Eastern  
20 Profit's plan was that the public reaction to its  
21 publicizing this information would cause its assets to  
22 be unfrozen in Hong Kong? Answer: Eastern Profit  
23 believes to disclosure this corrupted Chinese  
24 official, bring the justice to Chinese people and  
25 itself also. We'll be able to help all the Chinese

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2 people and itself including unfrozen Eastern itself  
3 assets and back to normal business which Eastern was  
4 conducting before their bank account were frozen."

5               Okay, then there's more. Let's see, this is  
6 page 202. "Question: What was Eastern Profit's  
7 specific plan to use the research results to unfreeze  
8 it's Hong Kong assets? Ms. Cline: Objection to form.  
9 Mischaracterizes testimony beyond the scope of the  
10 agreement regarding the scope of the deposition. You  
11 can answer. Answer: I'm happy to tell you. I  
12 remember on my name list there are two persons, one is  
13 called Meng Kiong Ju (phonetic), he was the head or  
14 spearhead of entire China Police Court," it says  
15 persecutor, I think she said prosecutor, "almost, most  
16 of the law enforcement, he's the head of that, the  
17 most powerful person, one of the most powerful person  
18 in China. Question: And so you hoped -- Answer: Let  
19 me finish." And then I, we finally got her to keep  
20 going. I said, "I thought you were finished with the  
21 sentence when a few seconds ticked by, go on ahead.  
22 Answer:" now we're on page 203. "So clearly if  
23 Eastern's previous directors, current directors, they  
24 were all persecuted by this corrupted Chinese  
25 official. So (indiscernible) disclosure of this

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2 Chinese official, his legal assets, his crimes, et  
3 cetera, to bring the justice to China. And it should  
4 be a natural understanding to Eastern and all the  
5 Chinese people who are persecuted by this bad  
6 official. If this official is completely removed, sent  
7 to jail, and they will be able to get their justice  
8 back including, you know the relationship between Hong  
9 Kong and Beijing, right, you don't need me to explain  
10 that, that will naturally bring justice to Hong Kong  
11 for Eastern Profit to release his assets which were  
12 illegally frozen. Question: In Hong Kong? Answer:  
13 Correct."

14 And then I went on: "And this Mr. Meng is a  
15 CCT for, I'm sorry, PRC official? Answer: He is  
16 Chinese Community Party official, yes." Then we went  
17 on and talked about another guy, I said: "So that's  
18 one person, you said there was a second person, who  
19 was that? Answer: The second person is Sun Li Juong  
20 (phonetic). Question: Okay, go ahead. Answer: I'm  
21 finished." And then I said, "I'm sorry, that time you  
22 were done, okay. What was the plan with respect to  
23 him, how was that going to unfreeze the assets?  
24 Answer: A similar plan. Question: Anyone else in  
25 your list of 15 names that were going to help unfreeze

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2 the Eastern Profit assets in Hong Kong? Ms. Cline:  
3 Objection to form. Answer: Everyone. Question: Okay,  
4 how were ACA assets able to flow out of Hong Kong?  
5 Objection: Beyond the scope. And then we did not  
6 probe further.

7 MS. TESKE: Your Honor, may I be heard on  
8 that?

9 THE COURT: Go ahead.

10 MS. TESKE: So there's never been, we've never  
11 disputed that there was a Hong Kong order freezing  
12 Eastern's assets. And nothing that she testified to  
13 suggests that it was frozen pursuant to anything else  
14 and that they were, you know, she's suggesting that  
15 they thought the Chinese government was influencing  
16 the Hong Kong court to impose that order. But that's  
17 never been in dispute and that doesn't change  
18 anything.

19 MR. GREIM: Well, Your Honor, I'm sorry, Erin,  
20 are you finished?

21 THE COURT: Go ahead.

22 MS. TESKE: Yeah, for now.

23 MR. GREIM: Okay, I mean nor have we said that  
24 the Chinese Communist Party even in China somehow goes  
25 in and freezes assets without using the legal system.

1 Of course, they always do in China and in Hong Kong.  
2 But the point is that we were saying that they are  
3 able to influence the legal system in Hong Kong, and  
4 the other side says, no, they are not able to do so.  
5 But now Eastern Profit says here is why our assets are  
6 frozen. It's because of these corrupt CCP officials.  
7 And, in fact, Eastern Profit goes even further and  
8 they say we were never even going to be able to repay  
9 this loan from ACA unless the research results, you  
10 know, yielded pay dirt and we were able to, you know,  
11 remove the corrupt officials in China, then we would  
12 get our assets unfrozen in Hong Kong. So it's now  
13 gone all the way over to not just the sort of side  
14 dispute, if you viewed it that way about whether they  
15 can remove things from China, now Eastern Profit says  
16 that's the entire reason for the contract, that's the  
17 only way Eastern Profit was ever going to be able to  
18 pay back ACA. And they go further on that, just to be  
19 clear, I didn't cite this information, but they said  
20 we're sharing the results of the research with ACA.  
21 And by the way, we are dissidents over here, Eastern  
22 Profit. So they connected all of the dots at this  
23 point and they have now claimed that it's the mainland  
24 "corrupt CCP officials" who have caused their assets

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2 to be frozen in Hong Kong. And I think that if  
3 they've got that power to do this with Eastern Profit  
4 and this other long list of Guo entities, why did they  
5 leave ACA off and why is that money able to flow  
6 freely to all of these other projects?

7 MS. TESKE: Okay, and so now we've actually  
8 come back to how this all started in the first place  
9 was because Strategic wanted to show that if ACA's  
10 assets weren't frozen and if Guo's weren't then he  
11 wasn't a dissident. And that's actually very different  
12 than the conversation we're having now --

13 THE COURT: Wait, wait, wait, wait, I'm sorry,  
14 you're talking a little fast for me to follow that.

15 MS. TESKE: Sorry.

16 THE COURT: Try that again more slowly.

17 MS. TESKE: Sure. So the last time we talked  
18 about this and the reason this conversation initially  
19 took place is that Strategic argued that Mr. Kuok was  
20 not a dissident if he had access to funds in Hong  
21 Kong. And Strategic has never been able to show that  
22 that is true. What it's saying now is that, and it's  
23 never been disputed, that the Chinese government has  
24 influence over Hong Kong Politics and that Hong Kong  
25 did eventually freeze Eastern's assets, and, in fact,

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2 eventually froze Mr. Kuok's, but the fact that they  
3 didn't freeze somebody's doesn't suggest that they're  
4 not a dissident.

5 THE COURT: Well Mr. Greim had argued last  
6 week that to his understanding, based on various and  
7 assorted things, that the theory that he's piecing  
8 together, and please correct me if I've got this  
9 wrong, Mr. Greim, because my memory may not be quite  
10 right, that Mr. Guo would hold himself out as a  
11 dissident but that was sort of a public persona, and  
12 behind the scenes he was actually not a dissident and  
13 was close to the Communist Party in China which  
14 understood that he, for whatever useful purposes, was  
15 holding himself out as a dissident but they were  
16 behind the scenes making sure that he was able to get  
17 to money through ACA which was essentially controlled  
18 by the Communist Party so that even if his assets were  
19 frozen because that's what would happen to a true  
20 dissident, the assets would end up frozen in Hong Kong  
21 as well as in mainland China, Mr. Guo was still able  
22 to move money through ACA because ACA would, that  
23 would be the means by which he would still be able to  
24 function and get money with the blessing of the  
25 Communist Party and with the control of the Communist

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2 Party. Am I remembering that more or less correctly?

3 MR. GREIM: Yes, Your Honor.

4 THE COURT: Okay, so the issue was not whether  
5 Mr. Guo's assets were frozen because he really was a  
6 dissident or for some other reason, the issue had to  
7 do with ACA's control and ACA's role here. And the  
8 testimony that seemed different from Eastern Profit's  
9 representative from a 30(B)(6) witness was that, oh,  
10 yes, he can't move money out of Hong Kong, his assets  
11 are frozen in Hong Kong, all because of the Chinese  
12 government, whereas my prior recollection was that no  
13 one had ever said, Mr. Greim had never shown, there  
14 was never really an issue about movement of money out  
15 of Hong Kong, that the Chinese government didn't control  
16 movement of money out of Hong Kong, this was all complete  
17 red herring because there had not been any showing that  
18 there was any restriction because of the Communist Party  
19 on money flowing in and out of Hong Kong. And therefore,  
20 if there was no restriction, what do we care about ACA,  
21 there is no restriction to begin with coming from the  
22 Community Party. If there is a restriction coming from the  
23 Communist Party in China of money moving in and out of  
24 Hong Kong if you are a dissident, which is what ACA, I'm  
25 sorry, Eastern Profit's witness seemed to signal from that

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2 testimony, then what does it mean if he can still get  
3 money through ACA and how do those pieces connect if ACA  
4 is, in fact, as Mr. Greim has suggested, controlled by  
5 someone who is aligned with the Communist Party.

6 It's a little bit, it's a little bit conspiracy  
7 theory-ish, but maybe that is exactly what the theory is,  
8 that it is alleged conspiracy between Mr. Guo and the  
9 Communist Party in China to have it appear on the surface  
10 that he is a dissident and behind the scenes help him get  
11 money out through a communist controlled organization. Now  
12 I don't know if that's true, not true, but there seemed to  
13 be enough there to allow a few questions of Mr. Guo  
14 regarding what does he know about the ownership and  
15 control of ACA, if anything? Were his assets, in fact,  
16 frozen in Hong Kong, and if so, what is his understanding  
17 as to why? And how did it come to be if his assets were  
18 frozen that he was able to move money through ACA if, in  
19 fact, he was able to move money through ACA? Beyond that,  
20 I'm not expecting a whole lot. But I thought that given  
21 this change it was worth revisiting my prior ruling where  
22 we did not have that testimony informing that prior  
23 ruling.

24 MR. HARMON: Your Honor, this is Mark Harmon,  
25 I'm here with Ms. Erin Teske on behalf of the

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2 nonparties participating in this call. So the  
3 original argument, and I think Ms. Teske was making  
4 this point, the original argument that was being made  
5 to support the interrogation of witnesses regarding  
6 ACA was that Hong Kong, China would never allow a  
7 dissident to move money out of China, and the  
8 submissions regarding that issue were to the point  
9 that the Chinese Government doesn't have the right to  
10 freeze assets, itself, in Hong Kong. That in order to  
11 freeze assets in Hong Kong, it has to be an order from  
12 the government in Hong Kong. And since there was no  
13 order in place against ACA, there was no prohibition  
14 on monies moving from ACA out of Hong Kong.

15 So we've moved away from the initial theory  
16 that just because it can move money, it must not be a  
17 dissident. So the question of whether the timing of  
18 the (indiscernible) is somehow material to this broad  
19 analysis that Strategic Vision was trying to adopt. So  
20 we do know that the Hong Kong government did impose  
21 orders freezing the assets of Eastern and we do know that  
22 the Hong Kong government did impose orders freezing the  
23 assets of Mr. Kuok. So on the basis that Hong Kong froze  
24 the assets, do we conclude that the Eastern and Mr. Kuok  
25 are indeed dissidents because their assets were frozen,

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2 or do we conclude that the government, that ACA is not a  
3 dissident on that basis, or simply that the Hong Kong  
4 government hadn't gotten around to freezing ACA's assets?

5 THE COURT: I think that the answers to those  
6 questions might turn on answers to questions about, that  
7 Mr. Greim is trying to get at relating to who controls  
8 ACA, what exactly is ACA. Is ACA an independent entity or  
9 is it controlled and in the pocket of the Chinese  
10 government in China, again, facts about which I have no  
11 actual knowledge. But the concept, as I understand it, the  
12 concept as I understand it is fairly straightforward even  
13 though it seems quite convoluted at first glance. And that  
14 is that Mr. Greim has articulated the theory that there is  
15 control by the Communist Party in China over assets of  
16 dissidents in Hong Kong, by whatever means, directly or  
17 indirectly through the courts, by whatever means, if you  
18 are a known dissident China will do things to make sure  
19 that you cannot move your money, that it will be frozen,  
20 including in Hong Kong, a fact that had been  
21 challenged earlier by at least plaintiff, and I think  
22 also by counsel of Mr. Guo saying that that had not  
23 been established. But in any event, the concept is, if  
24 you are a dissident, your assets will end up frozen in  
25 Hong Kong. So if Mr. Guo is a dissident, his assets

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2 will end of frozen in Hong Kong, sort of period, full  
3 stop right there for a moment.

4                   And at first there was a question as to  
5 whether his assets were, in fact, frozen in Hong Kong,  
6 and I was led to believe that they were not, there was  
7 really no issue with getting money in and out of Hong  
8 Kong, even if you're a dissident, and it was just, as  
9 I said, just a red herring because China didn't have  
10 that reach into Hong Kong.

11                  Now if China does have that kind of reach and  
12 if assets are frozen, the Mr. Greim's further theory  
13 is then he should not be able to get money out of Hong  
14 Kong, period, because the Communist Party will insure  
15 that that is so. And then he will not be able to get  
16 money out directly or indirectly through some other  
17 entity because eyes are everywhere and they'll know.  
18 Yet he was allegedly able to, he and Eastern Profit  
19 were able to get money from ACA, which Mr. Greim said  
20 is not surprising because ACA is actually controlled  
21 by the Communist Party and that call signals that  
22 something is up with his dissident status. That you  
23 have appearances and you have reality.

24                  So I don't know if any of that is legitimate,  
25 if any of that is true, if any of that is actually

1 provable, but it seemed to me that there was enough  
2 there from a combination of the information Mr. Greim  
3 was putting forward from various and assorted sources,  
4 including Eastern Profit's lawyer, not lawyer,  
5 witness, sorry, that there was enough, and it was  
6 interesting to me that on the last call counsel for  
7 Eastern Profit kept saying that he thought the witness  
8 had misspoken and it was not correct, but we have  
9 testimony from a 30(B)(6) witness who said something  
10 and it is what it is, and, you know, we can go from  
11 there a little bit. I thought it was worth allowing  
12 Mr. Guo to be asked some questions about the ownership  
13 and control of ACA, if he knows, and, you know, some  
14 questions about whether he is able to, he and Eastern  
15 Profit if he knows, are able to receive money through  
16 ACA, coupled with ownership and control of ACA.

18 Now, Mr. Greim, you have in your letter a  
19 whole list of topics you want to be able to ask Mr.  
20 Guo about, about ACA, but I think the critical one was  
21 ownership and control of ACA, if he actually has  
22 knowledge about that.

23 MR. GREIM: That's right, that's really topic  
24 number one.

25 THE COURT: And I think that's what we had

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2 talked about as not only topic number one but as  
3 topics, you know, maybe the topic and there may have  
4 been, you know, something about movement of money that  
5 may have been somewhat related. But this is not meant  
6 to substitute for a deposition of ACA in all regards.  
7 You really, as I recall, wanted to try to pin down who  
8 controlled ACA, and thought maybe Mr. Guo would know  
9 that, and if he doesn't know it, he doesn't know it,  
10 if he can't speak to it, he can't speak to it.

11 MR. GREIM: Right. Okay, Your Honor, we will  
12 keep it to, number one, ownership and control of ACA,  
13 and number two, his ability to receive money through  
14 ACA.

15 THE COURT: Okay, so I think if it's just that  
16 and it stays there, I think there's enough here to  
17 allow that in discovery and I think that we are, in  
18 fact, very close to the end of discovery, all right, I  
19 do not intend to extend the deadline. The Steve Bannon  
20 thing, you can come back to me if you have more to  
21 show about the efforts that were made and with respect  
22 to the subpoenas, you are going to be conferring in  
23 light of my guidance and seeing if you can resolve  
24 these issues. If you can't, you come back to me with  
25 something more narrow.

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2 MR. GREIM: Your Honor, one other --

3 MR. HARMON: Your Honor, this is Mark Harmon,  
4 your explanation of Mr. Greim's theory leads me, and  
5 his subsequent comments, to two questions. Number one,  
6 I hear that the concept is that ACA is actually an  
7 entity controlled by the Chinese Communist Party as a  
8 means for getting money to Mr. Guo. Other than Mr.  
9 Grime's conspiratorial suspicions, can I ask whether  
10 he has a good faith belief based upon evidence that he  
11 has that supports the notion that ACA is actually an  
12 entity through which the Chinese Communist party gets  
13 money to Mr. Guo?

14 THE COURT: Well Mr. Greim did come forward  
15 with something on our last call that you were not on,  
16 that was at least something along those lines, and  
17 again, my memory may fail. Mr. Greim.

18 MR. GREIM: Your Honor, I'll go through that  
19 again. So what we've been able to find is that, first  
20 of all, the person who on paper controls ACA is a man  
21 named William Gee (phonetic). And this information  
22 has been produced in party discovery but it's William  
23 Gee. And we've been able to find some information  
24 about William Gee's background and his current  
25 activities. So number one, he had been at an entity

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2 called Macquarie Capital Investment or Advisors, I  
3 don't have all my old notes in front of me here but  
4 I'll do my best, and he purportedly stepped down from  
5 Macquarie, which is a major investment bank and  
6 securities firm out of Australia. He had been the  
7 head of the Greater China Desk there which was  
8 responsibility for the mainland and Hong Kong.

9                   And so our first point was that someone who is  
10                  given that sort of position in a major entity like  
11                  Macquarie is not going to be somebody who is a  
12                  dissident or who has issues with the regime. But at  
13                  any rate, he allegedly stepped down from that entity  
14                  to take control of what was then described as Mr.  
15                  Guo's fund which was ACA at I believe the end of 2014.  
16                  This is just before Guo came to the US. However, it  
17                  wasn't, it's not clear and there are sources that  
18                  indicate he stayed on at Macquarie.

19 At any rate, one other thing that William Gee  
20 did was he was an economic advisor to many  
21 municipalities on the mainland and he continued in  
22 that role after the time that Guo was claiming to be a  
23 dissident, after the time Guo came to the US and his  
24 assets were being frozen. And then finally, even  
25 today, he serves on, I'm going to get the initials and

1 the name probably wrong here, but on the Chong King  
2 Hong Kong Patriotic Cooperation Committee and I  
3 believe the initials are about five letters, CPBCC or  
4 something to that effect. And that these patriotic  
5 committees are not, you know, these are not pro  
6 protestors, these are the coalitions of businessmen  
7 that China uses to sort of make its wishes known, make  
8 its policy wishes known, both in cities within the  
9 mainland but also within China. And so he is openly  
10 associated with this patriotic group in Hong Kong  
11 which is a Beijing agent in Hong Kong, and he would  
12 not, no way would you be a dissident or anything other  
13 than directly tied to the PRC and CCP if you are  
14 member of one of these committees. And it's in the  
15 open.

17 The other things we pointed to are the fact,  
18 to tie back in with Guo, that Eastern Profit, Golden  
19 Spring, Hong Kong, China Golden Spring, which controls  
20 Golden Spring (New York), your client, and ACA, all  
21 shared an office, two different offices in Hong Kong.  
22 One was in Guo's actual residence, waterfront  
23 residence, the other one was on the 49<sup>th</sup> floor of the  
24 Bank of China Tower in Hong Kong, downtown, which is  
25 owned by the Bank of China, state owned entity. And

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2 Guo specifically warned in one of his broadcasts that  
3 the Chinese were trying to use their Bank of China  
4 offices outside the mainland as places to conduct  
5 espionage and to work out of. So very bizarre that  
6 Eastern Profit, ACA and Golden Spring Hong Kong would  
7 all share an office in the Bank of China Tower in Hong  
8 Kong. So that's just, that's from my memory but that's  
9 part of what we showed.

10 THE COURT: I believe that I said -- hold on a  
11 minute, I believe I said in light of those  
12 representations that Mr. Greim should be able to ask  
13 Mr. Guo if he knows Mr. Gee and knows anything about  
14 him.

15 MR. HARMON: So my concern is that when you  
16 say, Your Honor, that Mr. Guo should answer questions  
17 about the control and ownership of ACA, that at the  
18 deposition the questioning is going to be consistent  
19 with Mr. Greim's past examinations which engage in a  
20 far flung review of all of the or attempt to review  
21 any financial transaction between ACA and Mr. Guo even  
22 unrelated to this case, unrelated to Eastern Profit's.

23 THE COURT: I'm giving Mr. Greim leave to ask  
24 questions about whether Mr. Guo has knowledge or  
25 information about who owns or controls ACA. And if he

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2 knows Mr. Gee and knows anything about him. I'm not,  
3 that doesn't mean, Mr. Greim, you know, you're going  
4 over transactions and the like. Understood?

5 MR. GREIM: Well, Your Honor, the second piece  
6 you'd mentioned before though was whether Guo was able  
7 to receive money through ACA. And we've alleged he  
8 got, you know, a million dollars from ACA just I think  
9 two years ago.

10 THE COURT: All right, I don't know what that  
11 paper trail looks like, I don't know on Mr. Guo's  
12 side, I don't know what transactions you're concerned  
13 about or concerned that Mr. Greim might put in front  
14 of the witness. Are you talking about transactions  
15 where Mr. Guo or Eastern Profit received money from  
16 ACA?

17 MR. GREIM: Yes, or where he directed money.  
18 So we know he directed \$100,000 to a witness in this  
19 matter from ACA. We know that he directed money to  
20 Strategic Vision from ACA. I don't actually have a  
21 large number, and I bet I'm not going to get a large  
22 number of answers, but if ACA is the one funding Guo's  
23 operation, I want to know about that.

24 MR. HARMON: Your Honor, that's exactly my  
25 concern. Mr. Guo has already sat for seven hour

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2 depositions and every time that we go back or talk  
3 about giving an arm, the request is for the arm and  
4 the leg. So it should, it should be enough to ask  
5 whether Mr. Guo owns and controls ACA, whether he  
6 knows Mr. Gee and whether or not he was responsible in  
7 any way for the payment by ACA to Strategic Vision in  
8 this case, it's a million dollars. If Mr. Greim's  
9 theory is correct, it's correct on the basis of that  
10 payment. He doesn't need to examine any other  
11 transactions.

12 THE COURT: Hold on. Did we talk previously  
13 about the length of this continued deposition?

14 MR. GREIM: No, we didn't, other than that I  
15 didn't think I could go for a full day given the  
16 topics that I've got.

17 THE COURT: How long do you anticipate, what's  
18 your best estimate of what you would like to do?

19 MR. GREIM: I'd like to take about four hours,  
20 but I've got an asterisk which is the final issue we  
21 raised about Golden Spring.

22 THE COURT: I'm sorry, what final issue you  
23 raised about Golden Spring?

24 MR. GREIM: Well I was going to get to this  
25 earlier, but you'll see in our November 27<sup>th</sup> letter we

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2 point out to you that Golden, remember we had to split  
3 Golden Spring and Eastern Profit depositions and so  
4 Golden Spring ended up producing its witness on a  
5 separate date. We had Court approved topics, the  
6 witness they produced was a paralegal who worked for  
7 Golden Spring. She had taken one hour of the night  
8 before to prepare for it, and we didn't get answers to  
9 many, many questions within the Court approved topics.  
10 So what I was proposing in my November 27<sup>th</sup> letter is  
11 that let's just have Mr. Guo -- now on the one hand I  
12 would like to have Yvette Wang come in because she's  
13 the one that has the information. On the other hand,  
14 she acts as Guo's assistant and since we've already  
15 got Guo coming back can we cut off an extra day,  
16 another trip probably, and just have Mr. Guo testify  
17 on these missing topics from Golden Spring.

18 MR. HARMON: I thought we were wrapping things  
19 up and that the only thing that was left was  
20 discussion with Mr. Guo afterwards, and the other  
21 nonparties were not going to be harassed further. And  
22 every time we continue a conversation it grows and  
23 grows.

24 THE COURT: Okay, stop please. Mr. Guo's  
25 deposition, as far as I'm concerned, no more

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2 depositions with the, as you put it, Mr. Greim,  
3 asterisk regarding Steve Bannon because I don't know  
4 what to make of that. Right now it's a no and I'm not  
5 having Ms. Wang back, we're not going there, okay, so  
6 I'm not going to hear about things growing and  
7 growing. The only question I have on the table right  
8 now is length of time for Mr. Guo's deposition because  
9 I think the way to deal with this is not to try to  
10 micromanage the questions on the topics that I'm  
11 allowing, but rather to say he can have this much time  
12 and that will be that.

13

MR. GREIM: Well then, Your Honor, in that  
case I've laid out, I'm not, I apologize if this is a  
surprise to anyone, but we laid out our objection  
regarding Golden Spring in our November 27<sup>th</sup> letter and  
my thought was we would actually save a lot of time by  
just trying it with Mr. Guo and having him testify on  
topics one, two and three from Golden Spring.

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And so, Your Honor, the reason I mentioned  
this in your question about timing was that if I could  
cover Golden Spring with Mr. Guo, as well, if I could  
cover topics one, two and three from our notice, which  
are not objected to with Mr. Guo, then I think I could  
do the whole Guo thing in five hours.

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2 THE COURT: What are the topics, in  
3 particular?

4 MR. GREIM: Okay, topic one was Golden Spring  
5 (New York) search for and production of document  
6 requests approved by the Court.

7 THE COURT: I'm sorry, I'm sorry, you think  
8 Mr. Guo is going to be able to answer questions about  
9 Golden Spring's search for documents?

10 MR. GREIM: Well, Your Honor, we believe that  
11 Guo controls Golden Spring and maybe, you know, at  
12 best he can tell us what documents they actually have.  
13 That's my last, I mean I'm sort of compromising here a bit  
14 because I think Yvette Wang does know the answer but I  
15 don't want to juggle yet another person. But that's  
16 topic one.

17 Topic two was the ownership, management,  
18 governance and structure of Golden Spring between  
19 January 1, 2017, and July 1, 2019. The witness had  
20 not information on the duties of Golden Spring's  
21 officers or directors, including Yvette Wang and Guo  
22 Chong (phonetic), Guo's son and the sole director,  
23 including who gives directions to whom.

24 And then topic three is the last one, and that  
25 was Golden Spring (New York)'s dealings with Eastern

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2 and Guo between January 1, 2017, and July 1, 2019,  
3 related to negotiation, execution and performance of  
4 the contract at issue. And my July 27<sup>th</sup> letter has a  
5 long list of questions for the witness who just had an  
6 hour and was a paralegal, didn't know, just did not  
7 know what was going on. These were topics approved by  
8 the Court and they never changed.

9 MR. HARMON: Your Honor, Mr. Guo has sat for a  
10 full day deposition on everything having to do with  
11 his relationship with this case, with Eastern Profit,  
12 with the contract, with dealings with Golden Spring  
13 regarding the contract, all of that's been covered.  
14 To sit him down again for a limited examination on who  
15 the owners of ACA are, if he knows, is he able to move  
16 money without going into the details from ACA, and  
17 questions about Golden Spring should not require five  
18 hours of testimony. He's got a limited, Mr. Greim  
19 should have a very limited scope and I think that Mr.  
20 Kuok, because he was required to return for three  
21 hours, has got to be more time than necessary if you  
22 are doing a targeted deposition.

23 MR. GREIM: But, Your Honor, I think what Mr.  
24 Harmon left out was the Court's prior order which  
25 relates to his discussions with or negotiations with

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2 CCP officials in the six months before the contract  
3 was signed --

4 THE COURT: Right, hold on a second. Hold on  
5 a second. This business about ACA, which should be  
6 very limited, is new and additive to what I had  
7 previously said Mr. Guo should come back for a  
8 deposition for. This is not supposed to be the only  
9 topic, this was, I'm adding, I'm allowing Mr. Greim to  
10 add on a few questions about ACA at this deposition  
11 where I previously said no on that particular topic.  
12 That's all this current ruling is. The other topics  
13 with respect to a transcript of some YouTube video and  
14 conversations he's had with people over a certain  
15 period of time which I tried to limit and then I  
16 backed off of that limitation slightly to say the  
17 video could be included, I didn't mean to exclude it  
18 when it was, you know, shortly before the period  
19 that's justified, I was trying to say six months is a  
20 limiting principle, but I bent slightly on that. but  
21 all of that was supposed to be part of this continued  
22 deposition.

23 So with respect to Golden Spring though and  
24 communications with Golden Spring about the contract  
25 and all of that, that I don't think is anything where

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2 you had not had an opportunity before to depose Mr.  
3 Guo and where he, you know, did not already give  
4 testimony. So I don't understand why you need to go  
5 through that as a new topic, that shouldn't be  
6 something new, that should have been on the agenda  
7 last time.

8 MR. GREIM: Well, Your Honor, we wanted,  
9 obviously we wanted Golden Spring's testimony. When  
10 we, I mean and I can't remember all the instructions  
11 not to answer that we had before --

12 THE COURT: With Mr. Guo?

13 MR. GREIM: I'm sorry?

14 THE COURT: You mean with Mr. Guo?

15 MR. GREIM: Yes, with Mr. Guo.

16 THE COURT: But were there instructions not to  
17 answer about communications with Golden Spring related  
18 to the contract?

19 MR. GREIM: Your Honor, my recollection, and  
20 I've got to go back through, is that there is a  
21 mixture of, he was able to give some testimony but,  
22 for example, when we asked, you know, what Yvette  
23 Wang's role was with Golden Spring, the answer was he  
24 wasn't sure but I think he said she was too pretty to  
25 be in charge. And there was some, he dodged the

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2 question --

3                   THE COURT: Well look, no, I'm not revisiting  
4 rulings wholesale, okay, I already ruled with respect  
5 to a continuation of Mr. Guo's deposition, yes, he  
6 should come back and here are the particular topics  
7 and they were fairly narrow. The only thing that I am  
8 now doing is I am opening that window a slight bit  
9 more to include some questions about ACA's ownership  
10 and control and his ability to move money through ACA  
11 from Hong Kong. That's it, that's all that I am doing  
12 on that front. With respect to Golden Spring's  
13 witness not being able to answer questions, if they're  
14 already the types of areas that would have been  
15 covered in your prior deposition of Guo, then they  
16 were covered in your prior deposition of Guo. And the  
17 rules say you get seven hours and I'm not making an  
18 exception to have you go back over old ground, right,  
19 you can have the topics that I previously said. If  
20 there is a particular topic for Golden Spring where  
21 you did not get adequate testimony and you want to  
22 move to have somebody come back and answer, you're  
23 going to have to show that it was relevant, that it  
24 was approved by the Court if it was put before me  
25 before, or else it was not disputed by the parties or

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2 by Golden Spring's counsel, that there was a complete  
3 refusal or failure to answer these questions and that  
4 they're, you know, totally different from questions  
5 you would have envisioned before asking Mr. Guo. And  
6 you would have had no reason to ask him at his prior  
7 deposition and, you know, it couldn't have been  
8 anticipated before to put them before Mr. Guo and now,  
9 you know, you're really stuck and in a bind and have  
10 nowhere else to turn.

11           I'm not inclined to have another Golden Spring  
12 witness back. Maybe if there's a concrete question  
13 that could be written, you know, or an answer could be  
14 provided in writing, you could say to Golden Spring's  
15 counsel, you know, here's the concrete question where  
16 the witness didn't have knowledge, can you please  
17 provide us a sworn answer from somebody. And deal  
18 with it that way, and counsel for Golden Spring take a  
19 fair look at the transcript, if you produced a witness  
20 who supposedly had knowledge on certain topics who  
21 didn't have knowledge on the topics, then see if you  
22 can make it right by, you know, by providing answers  
23 to particular questions that were posed where the  
24 person should have had knowledge and didn't. But this  
25 is not a wholesale revisiting of Mr. Guo's continued

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2 deposition, it's already a continuation.

3 MR. GREIM: Okay, fair enough, Your Honor, we  
4 thought, I mean frankly I thought this would be faster  
5 to do it this way, but we will, we laid out in our  
6 letter where we think Golden Spring fell short. I was  
7 somewhat abbreviated there, I just wanted to get it  
8 out to you and --

9 THE COURT: Look, you're going to have to show  
10 me on any particular Golden Spring Question that was  
11 asked, one, it's a question that's calling for  
12 relevant information, two, it was either approved by  
13 the Court, agreed by the parties or, you know, if it  
14 was never the subject of discussion but it's within  
15 one of the topics, there's a good reason why it's fair  
16 game. That the question really wasn't answered,  
17 couldn't be answered by this witness, you've got to  
18 show a good faith conference with counsel to try to  
19 work out that issue. I just, I don't think Mr. Guo is  
20 necessarily the way to go about this.

21 MR. GREIM: Okay. Okay, Your Honor, we'll  
22 take it back, we will --

23 THE COURT: I expect you to be at the end of  
24 discovery. I do not want the dribs and drabs to, you  
25 know, the trickle of things to turn into another

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2 stream of all kinds of things coming down the pike. I  
3 don't expect five letters per day on the docket, I  
4 don't expect, you know, new deposition requests, I  
5 don't expect, you know, more subpoena activity than  
6 has already been put in front of me, right, you've got  
7 to hold yourself to it, when you say you're at the  
8 end, it's got to be at the end.

9 MR. GREIM: Your Honor, I mean, look, we  
10 wanted to be done two months ago, and we are  
11 frustrated on the Golden Spring front because we had  
12 this witness who came in and, frankly, didn't know  
13 much, and I didn't expect --

14 THE COURT: All right, well counsel for Golden  
15 Spring, you know, confer in good faith about that, you  
16 know what the topics were, if the witness was not  
17 prepared to testify on certain topics where the  
18 witness was supposed to testify, see what you can do  
19 to make that right assuming, you know, it's focused,  
20 it's narrow, it can be dealt with with a relatively  
21 straightforward answer and see if you can work that  
22 out. I'm not going to stay discovery as to nonparties,  
23 I don't see that there is that much left and I think  
24 you just need to get to the end of it. I don't want  
25 anything left over should there be a denial of a

1 motion.

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3 All right, and there is one more issue out  
4 there that I'm aware of which has to do with the  
5 request for who is paying defendant's fees, where I  
6 know I've gotten some more briefing, is that fully  
7 briefed now?

8 MR. GREIM: We think it is, we're ready to  
9 argue it.

10 MR. HARMON: Your Honor, before we move onto  
11 that stuff, could we be shown some (indiscernible) --

12 THE COURT: I'm sorry, could we what?

13 MR. HARMON: I am aware that Mr. Greim is  
14 going to be allowed to question about meetings that  
15 Mr. Kuok had with representatives of the Chinese  
16 government, but even considering that topic and the  
17 limited topics that you permitted Mr. Greim to add on  
18 and considering that he's already been subjected to a  
19 seven hour deposition, a targeted deposition of the  
20 continued deposition of Mr. Guo should not take more  
21 than three hours and I think there should be time  
22 limitation.

23 MR. GREIM: Your Honor, I would simply say it  
24 takes a very long time, this is a witness where we  
25 have a translator and occasionally we have it checked

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2 by a check translator. If you look, for example, at  
3 the seven hour deposition that we took before, and  
4 again, I will say much of that was blocked, you will  
5 see that it doesn't take up that many pages because of  
6 the time that it takes to have the translator  
7 translate my question, the answer, and then any of the  
8 objections or instructions not to answer. And so I,  
9 with a different witness I actually might agree it  
10 would take less than that time but I know what it's  
11 like with this witness and I just know that it's going  
12 to end up happening.

13                   THE COURT: What time are you starting the  
14 deposition in the morning?

15                   MR. GREIM: I think ten o'clock, Your Honor.

16                   MR. HARMON: Your Honor, that is another  
17 problem, I have alternate dates to provide, but Mr.  
18 Guo is not available tomorrow.

19                   THE COURT: I expect him to be deposed  
20 tomorrow, why is he not available? I've had it with  
21 Mr. Guo being directed to appear and then finding to  
22 that he's just not, he just can't do it, because he's  
23 been directed to do it. Where is he going to be  
24 tomorrow?

25                   MR. HARMON: I don't have the, I'm sorry, it's

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2 Wednesday, I don't have the details on where he is  
3 going to be.

4 THE COURT: Why is he not available? Tell him  
5 I expect him to appear, let's move on. Four hours,  
6 four hours total I expect him to appear.

7 With respect to the issue -- first of all,  
8 other than the issue of who is paying defendant's  
9 counsel's bills, is there any other issue that remains  
10 outstanding for me at the moment other than things  
11 we've talked about already?

12 MR. GREIM: Your Honor, I was going to raise,  
13 we kind of moved quickly from Bannon but it sounds to  
14 me like I need to get his counsel on the phone with  
15 you for permission to appear on the 5<sup>th</sup>.

16 THE COURT: Well I am not -- okay, with  
17 respect to Mr. Bannon let me see if I can clarify.  
18 All right, an application to compel Mr. Bannon to  
19 appear, if you are making such an application, is  
20 denied. As far as I'm concerned, it's outside of the  
21 discovery period, I've had no showing of diligence and  
22 why it was impossible to make this happen during the  
23 discovery period assuming he really is a witness with  
24 relevant knowledge for information. So right now it's  
25 just denied. It's denied without prejudice to renew

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2 upon an appropriate showing. And part of the reason  
3 that I'm not persuaded is because I suspect there are  
4 two sides to the story of the efforts that were made  
5 to secure his testimony, how much notice was given,  
6 when the discussions started, when you could have  
7 subpoenaed him for the first time, you know, whether  
8 he was dodging service or not, and so on. And I'm just  
9 not going to simply take your word for it. So it's  
10 denied without prejudice and if you can make a better  
11 showing as to, you know, what has happened, I will  
12 allow Mr. Bannon's counsel to be heard on the topic.  
13 And so you should alert Mr. Bannon's counsel that if  
14 you are going to renew the application and he wishes  
15 to be heard, I will hear him or her as the case may  
16 be. If he or she does not wish to be heard and you  
17 have a full application about all of the efforts that  
18 were made with the timing, here's the subpoena, here's  
19 when it was served, here's when we tried to serve it,  
20 here's the effort we made to serve it, here's the  
21 conversation we had, here's how he made it so  
22 difficult, and we couldn't possibly have done it on  
23 reasonable notice within the discovery period and I'm  
24 persuaded, and Mr. Bannon's counsel has been given an  
25 opportunity to be heard and doesn't wish to be heard,

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2 then I'll decide it on a renewed application based on  
3 what you tell me alone, as long as it's clear that  
4 he's been given the opportunity, her or she, and does not  
5 wish to take me up on it.

6 Now if an application is made in another  
7 district to quash a subpoena, it's in another district,  
8 and so be it.

9 MR. GREIM: Okay.

10 THE COURT: For that matter, take a look at the  
11 rules regarding applications to enforce subpoenas which  
12 are usually enforceable only by contempt, and whether that  
13 needs to be made in the district where the subpoena was  
14 served also. Because if, in fact --

15 MR. GREIM: Your Honor, I guess my point, it's  
16 not clear to me, I don't have a motion to quash, it's  
17 not clear to me that there is one coming but it sounds  
18 like what you're telling us is the ball is in our  
19 court truly to, well, first of all --

20 THE COURT: What I'm saying is you've asked me  
21 for one thing right now and that is to extend the  
22 discovery period for the purpose of this deposition  
23 and the answer is no. I will not do that absent a  
24 better showing as to why the discovery period should  
25 be extended. If you want to do that I'm going to give

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2 Mr. Bannon's counsel an opportunity to be heard on the  
3 topic of whether the discovery period should be extended  
4 to allow for this deposition. It may be that substantive  
5 argument regarding whether the deposition should happen or  
6 not is not going to be made in this district.

7 MR. GREIM: Right. Okay, very good, we'll march  
8 ahead on that and I think that's all the clarification we  
9 need.

10 THE COURT: Is there any other issue out there  
11 that I have not at least touched on besides the, who's  
12 paying the bills? No? I don't think we need nonparties'  
13 counsel for that, is that right?

14 MS. TESKE: No, I think we're signing off now,  
15 thank you, Your Honor.

16 THE COURT: Okay. So feel free to drop off  
17 the call, assuming that doesn't affect our conference  
18 call. All right, so on that topic, who do we now have  
19 on the call, do we just have counsel for the parties?

20 MR. GREIM: Yes, Mr. Greim and Ms. Donnelly  
21 for Strategic Vision.

22 MR. CHUFF: And this is Chris Chuff from  
23 Pepper Hamilton for Eastern Profit.

24 THE COURT: Okay. So this is a somewhat  
25 unusual request, then again, there have been lots of

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2 somewhat unusual requests in this case, who wants to  
3 be heard first?

4 MR. CHUFF: So Your Honor, we think that this  
5 request, we believe that this is really a contract  
6 claim. Eastern Profit is seeking a million dollars --

7 THE COURT: Wait, who is speaking here?

8 MR. CHUFF: I'm sorry, this is Chris Chuff  
9 from Pepper Hamilton.

10 THE COURT: Okay.

11 MR. CHUFF: And so we view this as a contract  
12 claim. Eastern Profit is seeking the return of a  
13 million dollar deposit under the contract, Strategic  
14 Vision is seeking roughly \$1.5 million dollars under  
15 the contract. It's (indiscernible) claim for which the  
16 claimed damages are less than \$500,000, is a complete  
17 sideshow, but curiously all of Strategic Vision's  
18 discovery efforts are focused there. And we need to  
19 be able to defend ourselves if Strategic Vision is  
20 going to continue to probe into this area. So what's  
21 what our motion to compel is intended to do.

22 As part of Strategic Vision's star claim,  
23 Strategic Vision is claiming that contrary to Mr.  
24 Guo's representations that he is a Chinese dissident  
25 and opposes the Chinese Communist Party, Mr. Guo is

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2 actually affiliated with the Chinese Communist Party  
3 and that Strategic Vision would have never entered  
4 into the contract with Eastern had it known that to be  
5 the case. Now if an affiliate of the Chinese  
6 Communist Party is paying Strategic Vision's  
7 litigation bills, then Strategic Vision's star claim  
8 falls apart. That fact would show that the Chinese  
9 Communist Party views Mr. Guo as an opponent, not an  
10 ally, and therefore corroborating the truthfulness of  
11 his alleged representation that he opposes the CCP.  
12 And it also shows that Strategic Vision is willing to  
13 associate with affiliates of the CCP, contrary to its  
14 claim that it's not. And so it goes to two direct  
15 elements of Strategic Vision's fraud counterclaim of  
16 the falsity of Mr. Guo's alleged statements that he's  
17 a dissident and opposes the CCP and the reliance  
18 elements, because it refutes Strategic Vision's  
19 allegation that it would never associate with the  
20 Chinese Communist Party.

21

THE COURT: And what is the basis for your  
22 belief or reasonable suspicion here that the bills are  
23 being paid by the Chinese Communist Party in some  
24 manner or someone affiliated with it?

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MR. CHUFF: So the first and foremost is

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2 during our meet and confer regarding this motion to  
3 compel, I asked opposing counsel to stipulate that  
4 their bills are not being paid by an affiliate of the  
5 Chinese Communist Party and they refused.

6 THE COURT: Okay, a refusal to stipulate is  
7 not evidence that something is true.

8 MR. CHUFF: Right, no, agreed. But it is  
9 circumstantial --

10 THE COURT: But what led you to make the  
11 application in the first place, what led you to ask  
12 for the stipulation in the first place?

13 MR. CHUFF: Right, right, so two things.  
14 First, Strategic Vision's prior two sets of lawyers  
15 withdrew because Strategic Vision could not pay their  
16 legal bills. Then all of a sudden in June, 2017,  
17 Graves Garrett enters its appearance (indiscernible)  
18 and stuff like that and is apparently being paid. And  
19 so, first of all, we know that someone with the  
20 financial wherewithal has decided to pay Strategic  
21 Vision's bill.

22 But second, and more importantly, we believe  
23 that person is Bruno Wu who is a registered foreign  
24 agent of the Chinese Communist Party and we know that  
25 because he had to file a registration statement

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2 pursuant to the Foreign Agents Registration Act of  
3 1938 evidencing that fact.

4 THE COURT: I'm sorry, and what makes you  
5 think he's the one paying the bills?

6 MR. CHUFF: Right, I'm sorry, I'm getting  
7 there now. So Bruno Wu sued Mr. Guo in New York State  
8 Court for defamation in March, 2018. In that case,  
9 Bruno Wu was represented by the law firm Arkin  
10 Solbakken. Fast forward to August, 2019, Mr. Guo sues  
11 Strategic Vision and others (indiscernible) for  
12 defamation in New York State Court. And in that case  
13 Strategic Vision was, we think not coincidentally,  
14 represented by the same law firm as Bruno Wu, Arkin  
15 Solbakken. And so it's all of these things that give  
16 us we think a good faith basis to believe that  
17 Strategic Vision's legal bills are being paid by  
18 someone affiliated with the CCP, particularly Bruno  
19 Wu.

20 THE COURT: I'm sorry, this person was an  
21 adversary of Mr. Guo in some other litigation?

22 MR. CHUFF: Right, Bruno Wu sued Mr. Guo in  
23 New York State Court for defamation in March, 2018,  
24 and in that case he's represented by the law firm  
25 Arkin Solbakken.

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2 THE COURT: What was the defamation claim  
3 about, just out of curiosity?

4 MR. CHUFF: You know, I actually don't have  
5 the details in front of me, Your Honor, and I wasn't,  
6 I'm not prepared to I guess get into the details of  
7 it.

8 THE COURT: Okay, so because somehow Strategic  
9 Vision seems to have suddenly found money to pay  
10 counsel, your assumption is that the way that they  
11 found money to pay counsel is from this person who has  
12 been an adversary of Mr. Guo because there's a  
13 coincidence with respect to law firms. And because  
14 this person is a registered foreign agent you draw  
15 from that that this person is, that, I'm sorry, that  
16 it must be that strategic vision is being paid by a  
17 Chinese communist party agent?

18 MR. CHUFF: That's right, Your Honor. And  
19 again, if we're applying the goose and gander  
20 approach, I mean the defendant has been given some  
21 latitude to (indiscernible) things that we think are  
22 completely unproportional and have nothing to do with  
23 this case, and we think that this is much closer, much  
24 more closely tied to elements of a claim than anything  
25 that they're pursuing.

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2 THE COURT: So you just want to know, you  
3 don't want to see all the bills or anything, you just  
4 want to know is this particular person funding the  
5 defense?

6 MR. CHUFF: We want a name, Your Honor, we  
7 want just a name, that's it.

8 THE COURT: You just want to know if this  
9 person who you think is funding the defense, you want  
10 to know if he is, in fact, funding the defense?

11 MR. CHUFF: Right, exactly. Now if some other  
12 affiliate of the CCP is funding the defense, we'd want  
13 to know that, too, but just the name, name or names.

14 THE COURT: All right, so let me hear from Mr.  
15 Greim on this because I will say that I've spent a  
16 long time sort of winding my way through your various  
17 potentially supportable conspiracy theories, just  
18 because something is a conspiracy theory doesn't  
19 necessarily mean it's wrong, if there is, in fact, a  
20 conspiracy, but trying to work my way through the  
21 various ins and outs of why you should be suspicious  
22 of a certain person because of affiliations and so on  
23 and so forth, and it is true that the argument was  
24 made by Strategic Vision that had you but known that  
25 Mr. Guo was not a dissident but, in fact, was in

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2 league with the CCP, Communist Party in China, you  
3 would never have entered into the contract, would  
4 never have, you know, sullied the entity's reputation  
5 through that association, and so on. So why is this  
6 not just as discoverable as the sorts of things that  
7 you've been looking for?

8

MR. GREIM: Your Honor, a couple of things,  
9 I'll answer that question but I've got to, as soon as  
10 I answer that I want to come back to these two prongs  
11 that Mr. Chuff gave here. Because I think one of them  
12 we may just have a misunderstanding between the  
13 parties, because I hit mute and quickly conferred with  
14 my co-counsel to make sure I wasn't missing something.  
15 But let me answer your first question here.

16

THE COURT: I don't know what you're talking  
about, do you want to explain?

18

MR. GREIM: Yeah, okay, I'm sorry, I'll start  
19 with that. So first of all, we don't believe that  
20 during any meet and confer we refused to stipulate  
21 that we're not being paid by the Chinese Communist  
22 Party or some affiliate thereof. We can add in Bruno  
23 Wu or some affiliate of him. We absolutely would  
24 stipulate to that. We somewhat, I guess I would say,  
25 resent a little bit that we would need to, but we

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would. And as an officer of the court, I mean I'll say it right now that, and I think I've said that in our letter response, as well, we are not being paid by this Bruno Wu or any other affiliate or pass through or, you know, friend of a friend of Bruno Wu, however you want to call it. We're not being paid by any of those individuals or entities, or associations. And we're not being paid by the Chinese Communist Party or some friend of the CCP that they set up to make payments, however you want to define it, we are not. And I frankly did not recognize that that was a point that could have avoided this entire thing because we're absolutely not.

15

And I would also say on this other point regarding this firm Arkin S Solbakken, I actually have, I will say I have personal knowledge of how it is that they were slotted in to represent my client in this other defamation claim that Mr. Guo filed against Strategic Vision and actually me, individually. I'm actually a defendant in that case. And it does appear that this firm also represents Bruno Wu. I don't think it's a conflict for them to be doing that. But absolutely, I mean I have knowledge about how they were retained and it has nothing to do with Bruno Wu.

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2 So I'll make those representations for what they're  
3 worth.

4                 But to go back to the relevance issue, as  
5 well, this is a very, what we are trying to do on our  
6 side is we are showing what Guo was actually doing at  
7 the time of the contract, you know, immediately before  
8 and immediately afterwards. We can show the genesis of  
9 this ACA fund, we can trace the whole thing through.  
10 We've got a lot of factual backing for that. Whether  
11 you agree with our conclusion or not we have many,  
12 many data points out there and did before we even  
13 filed the counterclaim.

14                 What they're trying to say is that it's our  
15 conduct in the litigation that's probative, and that  
16 is a very different thing. They're trying to take our  
17 conduct here and the fact that we're fighting hard,  
18 trying to finally pull all this together as a coherent  
19 claim and they're saying that really that is the thing  
20 that makes this suspicious. And by the way, if you're  
21 being paid now, you must be okay with the communists,  
22 you must not have much of a problem with them, and  
23 then we can extrapolate back in time to what you would  
24 have been willing to do when you negotiated with Mr.  
25 Guo.

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2           But of course, and I'm going to be very  
3 careful about how I say this, but there are several  
4 extra bridges to jump here, to cross, when you try to  
5 draw conclusions about what somebody does once they've  
6 actually been sued. Not just in this litigation but  
7 have been sued for defamation. I mean it does not, in  
8 other words, what a party is willing to do now that  
9 they are on the line in this case, that everything is  
10 on the line, does not translate back to what they are  
11 willing to do when they entered into the contract.

12           THE COURT: But, wait a minute. Maybe we  
13 don't need to go to points B, C and D if you can reach  
14 a resolution of this with point A. Maybe there is  
15 some willingness to stipulate and maybe in light of  
16 the willingness to stipulate the motion can be  
17 withdrawn. What say you on plaintiff's side?

18           MR. CHUFF: Yes, Your Honor, so if they're  
19 willing to stipulate that they're not currently being  
20 paid by anyone associated with the Chinese Communist  
21 Party, associated, affiliated, and also that they do  
22 not have a fee arrangement to be paid by anyone  
23 affiliated or associated with the Chinese Communist  
24 Party and we do think that this resolves the issue.

25           THE COURT: Hold on, Mr. Greim, do you think

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2 you can work out a stipulation along those lines?

3 MR. GREIM: Yes, in those exact words or  
4 something similar we will make out a stipulation, and  
5 I mean if it's good enough I will accept the words he  
6 just used.

7 MR. CHUFF: We'll give it some thought but I  
8 assume that (indiscernible).

9 THE COURT: All right, so I'm going to  
10 consider this a nonissue because you are going to work  
11 it out by stipulation. You know, I will say on points  
12 B, C and D, even though we don't need to get there,  
13 that I think it went to the question of reputational  
14 harm. If there was a claim for that. I think that was  
15 where I was seeing the potential relevance. For us to  
16 be seen as doing something involving the Communist  
17 Party would hurt our business. But I don't really  
18 think I need to dwell on that or give it further  
19 analysis.

20 All right, I think we are going to be  
21 adjourned. And as far as I'm concerned, you get the  
22 four hours for Mr. Guo, you're going to have further  
23 talk about the pending subpoenas to see if you can  
24 work them out, if not you're going to come back to me  
25 with something more narrow, and I think that's going

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2 to be that unless you end up making a persuasive  
3 argument that discovery should be reopened for Mr.  
4 Bannon's deposition, assuming that it's not quashed by  
5 another district. All right?

6 MR. GREIM: Thank you, Your Honor.

7 THE COURT: Okay, take care, everybody.

8 MR. CHUFF: Thanks, Your Honor.

9 (Whereupon the matter is adjourned.)

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C E R T I F I C A T E

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I, Carole Ludwig, certify that the foregoing  
transcript of proceedings in the United States District  
Court, Southern District of New York, Eastern Profit  
Corporation Limited versus Strategic Vision US, LLC, et al.,  
Docket #18cv2185, was prepared using PC-based transcription  
software and is a true and accurate record of the  
proceedings.

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Signature Carole Ludwig

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Carole Ludwig

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Date: December 6, 2019

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